HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 4054 OF 1991

Between:

Baddam Mallamma.

……Petitioner

And

The District Collector, Ranga Reddy District

and five others.

……Respondents

:: JUDGMENT ::

Counsel for the petitioner : Sri N. Subba Reddy, senior

advocate representing Sri A.

Prabhakar Rao

Counsel for Respondent Nos. 1 &2 : Government Pleader for Revenue

Counsel for Respondent No. 4 : Sri J.C. Francis

Counsel for Respondent Nos.5 & 6 : Sri N.S. Madhava Rao

Dated: 10-02-2006

This petition is directed against order dated 07-08-1990 passed by District Collector, Ranga Reddy District (respondent No. 1) whereby he allowed the appeal filed by respondent No. 3 Kattula Maisayya (deceased) (now represented by his legal representatives, namely, K. Ramaiah and K. Laxmaiah - respondent Nos. 5 and 6) and quashed order dated 02-08-1978 passed by Revenue Divisional Officer, Hyderabad (respondent No. 2) for grant of occupancy certificate in favour of the petitioner in respect of Survey Nos. 255, 256, 257, 258, 259, 260, 261 (total measuring Ac.24-13 guntas) situated at Munchintal Village, Shamshabad Mandal.

Although the petitioner has challenged the impugned order on several grounds set out in the writ petition, I do not consider it necessary to delve deep into the various issues raised by the petitioner because after perusing the record and hearing the learned counsel for the parties, I am convinced that the impugned order is vitiated by an error of law, inasmuch as respondent No. 1 disposed of the appeal filed by late Sri Kattula Maisayya without adjudicating the issue of limitation.

There is no dispute between the parties that late Sri Kattula Maisayya had filed an appeal under Section 24 of the A.P (Telangana Area) Abolition of Inam Act, 1955 (for short 'the Act') after 11 years of passing of order dated 02-08-1978 vide

which respondent No. 2 had granted occupancy certificate to the petitioner. It is also not disputed that he had filed a petition under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure for condonation of delay, but without deciding the issue of delay, respondent No. 1 finally disposed of the appeal and quashed the occupancy certificate granted to the petitioner.

Section 24 of the Act which provides for appeal from orders under Section 10 reads as under:

> "**Appeals from orders under Section 10 to prescribed authority**: (1) Any person aggrieved by a decision of the Collector under Section 10 may, within 30 days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.
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> (2) If any question arises whether any building or land falls within the scope of Section 9 the same shall be referred to the prescribed authority whose decision shall be final".

A reading of the above reproduced provision makes it clear that the statutory period prescribed for filing an appeal is 30 days from the date of decision, but the prescribed authority has the discretion to extend the period of limitation if sufficient cause is shown by the appellant.

Whether the application filed by late Sri Kattula Maisayya for condonation of delay contained averments showing the existence of sufficient cause was required to be decided by respondent No. 1 which has admittedly not been done. In my view, without deciding the issue of limitation, respondent No. 1 could not have adjudicated the appeal filed by late Sri Kattula Maisayya on merits.

As a corollary, it must be held that the impugned order is vitiated by error of law apparent on the face of the record.

For the reason stated above, the writ petition is allowed. Order dated 07-08-1990 passed by respondent No. 1 is quashed with a direction that he shall decide afresh appeal of late Sri Kattula Maisayya (now represented by respondent Nos. 5 and 6). The parties are directed to appear before respondent No. 1 on
10-03-2006. Within next three months, the officer concerned shall decide the appeal. While doing so, he shall first consider the issue of limitation. If he comes to the conclusion that the appellant has been able to make out a case for entertaining the appeal which was admittedly filed after 30 days, then he shall proceed to decide the challenge to the occupancy certificate granted in favour of the petitioner. If, on the other hand, respondent No. 1 comes to the conclusion that the appellant has failed to make out a case for condonation of delay, then he shall have to dismiss the appeal as barred by time.

Since the matter has remained pending before this Court for more than 14 years and as on today, a period of 15 years and 6 months has elapsed from the date of decision of appeal preferred by late Sri Kattula Maisayya, we give liberty to the parties to file additional affidavits in support of and in opposition of the application for condonation of delay. This shall be done by both the parties within a period of two weeks counted from
10-03-2006.

In order to protect the present status of the property in dispute, I direct the petitioner to maintain status quo as it is obtaining today. This would necessarily mean that she and her representatives shall not be entitled to transfer by way of gift, sale and in any other manner, the property in dispute.

G.S. SINGHVI, CJ

10-02-2006

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